

Meeting Date: April 1, 2024

TO: Lower Merion Township Planning Commission Members
FROM: Colleen Hall, Senior Planner & Holly Colello, Planner; Department of Building and Planning
SUBJECT: Conditional Use Application – 223 N Highland Avenue, Merion Station, Ward 9, CU# 3912C

PROPOSAL:

Kohelet Yeshiva High School is seeking conditional use approval from [Zoning Code Section 155-4.4.C\(6\)](#) to expand an educational use on the property and increase its enrollment by 40 students, totaling a 400-student maximum. To do such, the school must modify a previously imposed condition granted in 2016 by the Zoning Hearing Board (ZHB), Appeal no. 4362 that limits a student capacity of 360 students.

Kohelet Yeshiva High School, c/o Jennifer Groen, is represented on behalf of Jamie Jun, Esq., authorized agent and applicant.

[Article 155-4.4.C\(6\) Institutional District Applicability](#) of the Township Zoning Code permits the modification of Zoning Hearing Board conditions, stating:

All previous conditions imposed by the Zoning Hearing Board on the approval of institutional uses by special exception and all imposed conditions by the Board of Commissioners by conditional use shall remain in force but may be modified by conditional use. All previous conditions imposed by the Board of Commissioners on the grant of land development approval for institutional uses shall remain in force but may be modified by the Board of Commissioners, by amendment of the land development approval.



PROPERTY DESCRIPTION, ZONING DISTRICT & SURROUNDING USES:

The subject 6.94 acres (302,497 sq. ft.) property is located within the Institutional Education District (IE1). The site is improved with a three-story Jacobethan-style stone estate house with classroom additions, an attached gymnasium and Beit Midrash which contains a Modern Orthodox K-12 Yeshiva Day School, with 89 existing parking spaces. The property is accessed by a one-way driveway from N. Highland Avenue that traverses the site and exits onto Old Lancaster Road. There are playing fields along the Melrose Avenue frontage. The estate house is listed on the HRI as a Class II resource which was constructed in approximately 1913.

The purpose of the Institutional Education District zoning is to collectively define sites and buildings operated for the provision of full-time or part-time educational services for students of all ages. The intent of the institutional districts is to provide a regulatory context for institutional uses, with two main goals: to support the sustainability of institutions, and to render them compatible with the residential neighborhoods in which they may be located. These regulations recognize a diversity of institutional locations and goals, the institutional need to adapt to changing circumstances (including functions and growth), and neighborhood desires to minimize incompatibilities (including activities and expansion).

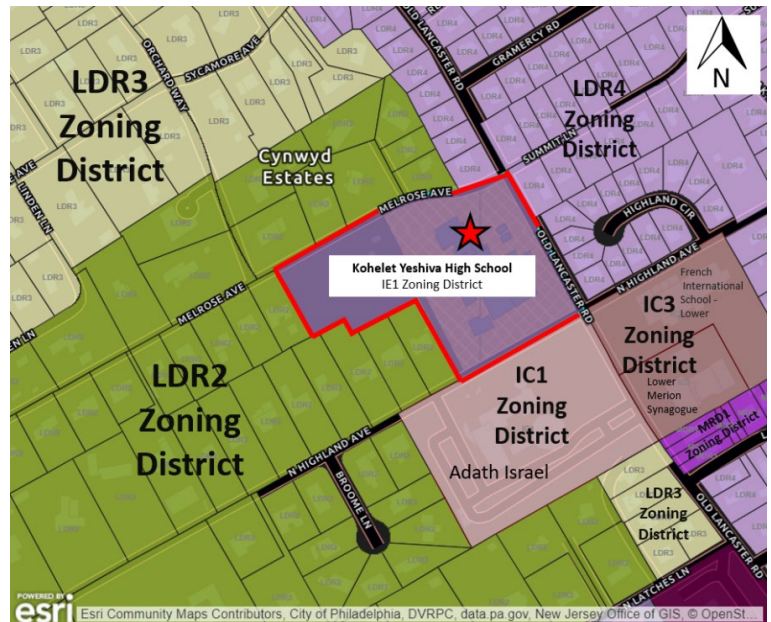
ZONING

North & West: LDR2, LDR3 & LDR4

- Uses: Single-family homes along Old Lancaster Road, Melrose Avenue and N. Highland Avenue.

South & East: LDR4, IC1, IC3

- Uses: The intersection of N. Highland Avenue and Old Lancaster Road contains five institutional uses: Kohelet Yeshiva High School, the Bala Cynwyd Library, the French International School, Temple Adath Israel and Lower Merion Synagogue.



APPEALS & BOARD DECISION HISTORY:

Since the original 1956 Zoning Hearing Board (ZHB) special exception approval to allow an estate house to be used as a private educational institution, the ZHB and Board of Commissioners (BOC) have both approved and denied numerous expansion proposals. Approved expansion proposals have included varying limits on the maximum number of students throughout the duration of the institutional use. Currently, there are 358 students enrolled at Kohelet Yeshiva in grades K-12 for the 2023-2024 school year, with a maximum cap of 360 students.

Originally the site of Akiba Hebrew Academy, this property was operated from 1956 until 2008 as a private school for students grades 6-12. During that time, a 1974 ZHB expansion decision capped a limit of 350 students. In 2008, the Akiba Hebrew Academy relocated to Radnor Township and subsequently sold the property to the Jewish Federation of Greater Philadelphia who operated the Stern Hebrew High School on the site.

Following the transition of ownership to the Jewish Federation of Greater Philadelphia in 2008, the property again transferred ownership in 2010 to the Kohelet Foundation who began operating the Kohelet Yeshiva High School, an accredited educational institution, for grades 9-12. Kohelet then applied to the ZHB for campus expansion to several adjacent parcels and significant site improvements including building additions, parking reconfiguration and construction of playing fields. Kohelet was granted a special exception under Code §155-11 S(2) to construct an addition to the principal education building on the property at 223 N. Highland Avenue, Merion Station which further conditioned the enrollment being capped at 180 students and the number of faculty/staff/volunteers capped at 63. Such conditions reduced the overall capacity of the school from the 350 students permitted from 1974.

In 2016, Kohelet applied to ZHB (Appeal no. 4362) to restructure the school from grades 9-12 to grades K-12 and expand facilities. On May 19, 2016, the ZHB granted a special exception under Code §155-11 S(2) and 155-11 X to expand the educational use on the properties at 223 North Highland Avenue, 280 Melrose Avenue and 284 Melrose Avenue in Merion Station. The enrollment was capped at 360 students and faculty/staff/volunteers was capped at 74. Other conditions related to the use and non-student use, the use of the open grass field on Melrose Avenue, buffering of the Melrose Avenue property line, pick up and drop off procedures, traffic impact/safety, buffering, and the lot consolidation.

Site improvements approved for land development associated with K-12 renovation included demolition of an existing home at 284 Melrose Avenue, consolidation of the three parcels into one parcel, construction of a two-story addition with an 11,602 sq. ft. footprint adjacent to the existing gymnasium, construction of a two-story addition with a 1,693 sq. ft. footprint onto the existing classroom building, shifting the existing entrance drive off of N. Highland Avenue 20 feet to

the east, the addition of 19 new parking spaces and the construction of a playing field on the former 280 and 284 Melrose Avenue properties.

The following summarizes the most recent conditional use application and BOC conditions from 2022:

- **August 1** – (BOC) approved a conditional use application pursuant to Zoning Code Section 155-4.4.C(6), to modify a condition imposed by the Zoning Hearing Board. The subject condition prohibited additional uses and/or users of the property and the applicant amended the condition to make the property available for two additional uses:
 - Sabbath services for up to 90 attendees on Saturdays from 8:30 am to 1:00 pm are permitted. Attendees shall not drive to services;
 - Evening basketball pick-up games for up to 30 adults, twice a week, no later than 10 pm entirely indoors. No basketball leagues or tournaments are permitted;
 - The Applicant shall attend a meeting with the Merion Civic Association and the Neighborhood Club of Bala Cynwyd annually; and
 - The Applicant shall work with staff, the adjacent property owners and SEPTA to install a bus shelter at the intersection along Old Lancaster Road.



ZONING HEARING BOARD (ZHB) REQUEST:


As previously mentioned, a Zoning Hearing Board Appeal no. 4362 in 2016 granted a special exception to expand the educational use on the property and included the following condition relating to proposed students:

Enrollment/Staffing: Enrollment is capped at 360 Students; the number of faculty/staff/volunteers is capped at 74; any increase in these amounts must be approved by the Board as a special exception.

Staff notes that since the approval of special exception in 2016, the new zoning code was adopted in 2020 and included Section 155-4.4.C.6, which permits conditions imposed by the Zoning Hearing Board on institutional uses to be modified by the Board via conditional use approval. Pursuant to such requirements, the applicant has requested to increase the total number of students from 360 to 400, with a restructuring of the limitations of the number of students based upon grade. **At that time the distribution of students was approved to be split between 180 grades K-8 students and 180 grades 9-12 students. The currently requested enrollment cap of 400 students is anticipated to consist of 275 grades K-8 students and 125 grades 9-12 students.** The distribution of high school-aged students impacts requirements such as parking, site ingress/egress capacity, queueing and peak hour traffic distribution for those of driving ages, as opposed to younger students requiring private or public forms of transportation drop-off.

MEETING SCHEDULE & PROCESS:

The *tentative* schedule for the conditional use request is as follows:

	Monday, April 1, 2024	Planning Commission	Review of the Conditional Use Request
<i>Upcoming</i>	Thursday, April 4, 2024	Conditional Use Hearing	Conditional Use Hearing Officer Hears Request
	Wednesday, May 8, 2024, or Wednesday, June 12, 2024	Building & Planning Committee	Review of the Conditional Use Request
	Wednesday, May 15, 2024 or Tuesday, June 18, 2024	Board of Commissioners	Review of the Conditional Use Request

Additional information about the Township’s Land Development approval process is illustrated in the [Subdivision & Land Development Flowchart](#). This application is currently in the *Stage 4: Public Meetings* portion of the process.

CONDITIONAL USE:

A use or standard modification permitted by conditional use is expressly permitted, but subject to a hearing to determine whether the conditional use application is consistent with the public interest as expressed in specific standards and criteria established in the Zoning Code. Conditional uses are usually reserved for land uses or standards that necessitate more control, additional safeguards, or greater flexibility. This is typically accomplished by imposing conditions of approval. The difference between a special exception and a conditional use is that special exceptions are decided by the Zoning Hearing Board, while conditional uses are decided by the Board of Commissioners.

The conditional use process is outlined in Article IX of the [Pennsylvania Municipalities Planning Code](#). In allowing a conditional use, the governing body may attach such reasonable conditions and safeguards, other than those related to off-site transportation or road improvements, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act and the zoning ordinance.

Further provisions for the conditional use process may be found within the Township Zoning Code Section [155-11.1.f](#). Ordinance provisions require that the applicant have the initial burden of persuasion that the application complies with the specific requirements of Section 155-11.1.f. Opponents have the initial duty of presenting substantial evidence that the application does not comply with the general criteria of this chapter, but the applicant shall retain the ultimate burden of persuasion concerning those criteria.

Applicant’s Burden:

The applicant has the burden of satisfying the conditional use criteria at the Conditional Use Hearing. The staff report complements the Conditional Use Hearing by providing background and identifying any planning issues related to the request. The Planning Commission may recommend that the applicant address issues at the Conditional Use Hearing and may also recommend conditions be imposed with the conditional use order to address specific issues.

REGIONAL AND TOWNSHIP COMPREHENSIVE PLAN COMPLIANCE: “Institutional Land Use”

The Institutional Land Use section of the 2016 Lower Merion Township Comprehensive Plan identifies Educational Institutions as vital components of the community’s social capital and built environment. Institutions can be broadly defined as land uses which serve a community’s educational, religious, social, healthcare, recreational, and cultural needs. Institutions may be privately owned or owned and/or operated by government agencies.

Private schools play an important role in the Township's overall educational system and provide an impressive variety of non-public educational alternatives for Township residents. Some private schools also offer educational, recreational, and cultural programs that are not typically included in the public-school curriculum in the region.

The expansion of the Kohelet Yeshiva High School will continue this pattern outlined in the Comprehensive Plan. The proposed expansion does not conflict with the Township Comprehensive Plan.

CHALLENGES AND OPPORTUNITIES:

Traffic

In the criteria for conditional use approval, the grant of the conditional use shall consider the suitability of the property in question. This criterion shall consider issues such as traffic, vehicular and pedestrian circulation, location and design of parking areas, adjacent land use(s), and other impacts on the surrounding area. If the proposal is adjacent to a residential district, the scale of the use shall relate to and complement the surrounding area.

The conditional use application includes a supplemental traffic study provided by F. Tavani and Associates, Inc. since the school is proposing to increase the permitted school enrollment from 360 students to 400 students. As previously noted, the approved 2016 enrollment limitation of 360 students was anticipated to be 180 grades K-8 students and 180 grades 9-12 students. This is not the current make-up of the school. Furthermore, the current proposed enrollment cap of 400 students is anticipated to consist of 275 K-8 students and 125 High school students. The study indicates that there is no increase in faculty or staff anticipated.

The Township Engineer's office reviewed the traffic study provided and offered the following additional information needed for consideration:

1. Since the proposed enrollment increase is associated with K-8 students, the study shall provide additional information regarding the trip generation methodology, including documentation of the existing drop-off and pick-up characteristics of K-8 students as compared to high school students. The study should breakdown the car, van, and school bus traffic.
2. Figures depicting the anticipated new vehicular trips and distribution associated with the proposed enrollment increase and total post-enrollment increase traffic volumes for the study intersections shall be included in the study.
3. Evaluation of existing pedestrian traffic within the study area, as well as any projected increase in pedestrian traffic associated with the increased enrollment shall be included in the study.
4. The existing onsite queue observations shall be updated to include the projected increase in queuing associated with the proposed enrollment increase.
5. The Level of Service summary tables shall also include existing and future queue conditions at each study intersection.
6. The Operational Analyses shall be adjusted as follows:
 - Use critical and follow up Headways based on PennDOT Publication 46 at unsignalized two-way stop-controlled intersections. Provide Headway Calculations in the Appendix. Provide additional information regarding the peak hour factor (PHF) used for the site driveway at Old Lancaster Road.
 - Right-turns on red are prohibited during the AM & PM Peak Hours on all approaches at Old Lancaster Road & Highland Avenue, revise information accordingly.
 - Change start-up lost time to 2.5 seconds per PennDOT Publication 46 under the HCM Settings for Old Lancaster Road and Highland Avenue.
 - Change queue length percentile to 95 in HCM settings for Old Lancaster Road & Highland Avenue.

ADDITIONAL REVIEWS:

- **Montgomery County Planning Commission (MCPC):** The County does not review conditional use applications.

- **Township Engineer's Review:** The Township Engineer comments are included, as well as summarized below, with their attached letter dated March 25, 2024.
- **Merion Civic Association:** Members of the association reviewed the applicant's proposal on March 26, 2024. Staff have not received any comments related to this meeting to date.
- **Neighborhood Club of Bala Cynwyd Civic Association:** The association was notified and will review the application at their April 2nd meeting.

PLANNING COMMISSION ACTIONS & STAFF RECOMMENDATIONS:

The Planning Commission must take the following actions with respect to this application:

1. A recommendation on the requested conditional use application.